

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
WINCHESTER DIVISION**

APRIL TELENA MILLER, and HUSBAND,
ROGER MILLER,

Plaintiffs,

v.

NORTHLAND INSURANCE COMPANY,
INC., REFA WATLEY d/b/a REFA WATLEY
TRUCKING, and LEWIS LEO WATLEY,

Defendants.

CIVIL ACTION

FILE NO.: _____

DEFENDANT'S NOTICE OF REMOVAL

Now comes Northland Insurance Company, Inc. (hereinafter, "Northland"), by and through the undersigned counsel, and files this Notice of Removal as follows:

1.

April Telena Miller and Roger Miller (hereinafter "Plaintiffs") filed a civil action against Defendant in the Circuit Court of Warren County, State of Tennessee, Civil Action File No. 3842, same being *April Telena Miller, and husband, Roger v. Northland Insurance Company, Inc., et al.* A copy of all process and pleadings filed in the Circuit Court of Warren County is attached as Exhibit "A".

2.

At the time of the filing of the Complaint, Plaintiffs were citizens and residents of the State of Tennessee.

3.

At the time of the filing of the Complaint, Northland was a Connecticut corporation with its principal place of business in Hartford, Connecticut.

4.

At the time of the filing of the Complaint, Defendants Refa Watley, d/b/a Refa Watley Trucking and Lewis Leo Watley were citizens and residents of the State of Tennessee.

5.

Plaintiffs allege in their Complaint that Northland is liable for commercial auto liability insurance coverage owed under an insurance policy. (See Complaint, *passim*). The policy's description of coverage, in part, lists One Million (\$1,000,000.00) Dollars in policy limits for each person and each accident for bodily injuries. Northland reasonably believes the amount in controversy exceeds \$75,000.00, exclusive of interest and costs, with respect to Plaintiffs' Complaint.

6.

Contemporaneously with this Notice, Northland has filed a Motion for Realignment of the Parties. A copy of this Motion is attached hereto as Exhibit "B". Where the primary issue in this action is whether Northland has a duty to indemnify its alleged insureds against Plaintiffs' liability claims, the parties should be realigned around this dispute. Specifically, Defendants Refa Watley, d/b/a Refa Watley Trucking and Lewis Leo Watley should be realigned as Plaintiffs where their interests coincide with the present Plaintiffs.

7.

The foregoing action is properly removable to this Court, pursuant to 28 U.S.C. §§ 1441(a), 1446(a) and 1446(b) and 1332(a), because once the parties are properly aligned, there is a complete diversity of citizenship between Plaintiff and Northland, and the matter in controversy, exclusive of interest and costs, exceeds the sum of \$75,000.

8.

Northland hereby gives notice within thirty (30) days after service and receipt by Northland of a copy of the Complaint filed in the Circuit Court of Warren County, State of Tennessee, pursuant to 28 U.S.C. § 1446 and Rule 11 of the Federal Rules of Civil Procedure, of the removal of said action to this Court.

9.

Northland has also sent for filing a Notice of Removal to the Circuit Court of Warren County, State of Tennessee. A copy of the Notice of Removal is attached hereto as Exhibit "C".

Respectfully submitted,

SPICER RUDSTROM, PLLC

By: 

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CERTIFICATE OF SERVICE

This is to certify that I have this day served a copy of the foregoing **NOTICE OF REMOVAL** by depositing said copy in the United States mail in a properly-addressed envelope with adequate postage thereon to:

D. Michael Kress, II
8 East Bockman Way
Sparta, Tennessee, 38583
Attorney for Plaintiff

Refa Watley
d/b/a Refa Watley Trucking
9571 SR 108 North
Altamont, TN 37301

Lewis Leo Watley
9571 SR 108 North
Altamont, TN 37301

This 29th day of April, 2011.



For the Firm